

Securities and Exchange Commission

§ 204.3

204.55 Change in notification to Internal Revenue Service.

204.56 Administrative charges.

204.57—204.74 [Reserved]

Subpart D—Miscellaneous: Credit Bureau Reporting, Collection Services

204.75 Collection services.

204.76 Use of credit bureau or consumer reporting agencies.

204.77 Referrals to collection agencies.

Subpart A—Administrative Offset

AUTHORITY: 31 U.S.C. 3716, 4 CFR 102.

SOURCE: 58 FR 64370, Dec. 7, 1993, unless otherwise noted.

§ 204.1 Applicability and scope.

(a) The procedures authorized for administrative offset are contained in Section 10 of the Debt Collection Act (codified at 31 U.S.C. 3716). The Act requires that notice procedures be observed by the agency. The debtor is also afforded an opportunity to inspect and copy government records pertaining to the claim, enter into an agreement for repayment, and to a review of the claim (if requested). Like salary offset, agencies may cooperate with one another in order to effectuate recovery of the claim.

(b) The provisions of this subpart apply to the collection of debts owed to the United States arising from transactions with the Securities and Exchange Commission (Commission). Administrative offset is authorized under Section 5 of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3716). These regulations are consistent with the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the General Accounting Office (4 CFR part 102).

§ 204.2 Definitions.

(a) *Administrative offset* as defined in 31 U.S.C. 3701(a)(1) means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.

(b) *Person* includes a natural person or persons, profit or nonprofit corporation, partnership, association, trust,

estate, consortium, or other entity which is capable of owing a debt to the United States Government except that agencies of the United States, or of any State or local government shall be excluded.

§ 204.3 General.

(a) The Chairperson of the Commission (or designee) will determine the feasibility of collection by administrative offset on a case-by-case basis for each claim established. The Chairperson (or designee) will consider the following issues in making a determination to collect a claim by administrative offset:

(1) Can administrative offset be accomplished?

(2) Is administrative offset practical and legal?

(3) Does administrative offset best serve and protect the interest of the U.S. Government?

(4) Is administrative offset appropriate given the debtor's financial condition?

(b) The Chairperson (or designee) may initiate administrative offset with regard to debts owed by a person to another agency of the United States Government, upon receipt of a request from the head of another agency or his or her designee, and a certification that the debt exists and that the person has been afforded the necessary due process rights.

(c) The Chairperson (or designee) may request another agency which holds funds payable to a Commission debtor to offset that debt against the funds held and will provide certification that:

(1) The debt exists; and

(2) The person has been afforded the necessary due process rights.

(d) No collection by administrative offset shall be made on any debt that has been outstanding for more than 10 years unless facts material to the Government's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering the debt.

(e) Administrative offset under this subpart may not be initiated against: